

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Emergency Communications by Amateur)	GN Docket No. 12-91
Radio and Impediments to Amateur Radio)	
Communications)	

**COMMENTS OF THE NATIONAL ASSOCIATION OF
TELECOMMUNICATIONS OFFICERS AND ADVISORS AND
THE NATIONAL LEAGUE OF CITIES**

The National Association of Telecommunications Officers and Advisors (“NATOA”)¹ and National League of Cities (“NLC”)² (collectively, “Commenters”) submit these comments in response to the Public Notice released April 2, 2012, in the above-entitled proceeding.

The Middle Class Tax Relief and Job Creation Act of 2012 (the “Act”), which was supported with some reservations by the Commenters, requires the Commission, in consultation with the Office of Emergency Communications in the Department of Homeland Security, to submit a study to Congress on the “uses and capabilities of amateur radio service communications in emergencies and disaster relief.” The study is to include a “review of the

¹ NATOA is a national trade association that promotes local government interests in communications, and serves as a resource for local officials as they seek to promote communications infrastructure development.

² The NLC serves as a resource to and an advocate for the more than 19,000 cities, villages, and towns it represents.

importance of emergency amateur radio service communications” and recommendations for “enhancements in the voluntary deployment of amateur radio operations in disaster and emergency communications and disaster relief efforts.”

The study is required to be submitted to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation within 180 days of the Act’s enactment. Unfortunately, this means that the study will necessarily fail to address how emergency amateur radio communications can complement the Act’s still-to-be proposed nationwide, interoperable public safety wireless broadband network. As a result, policymakers will be unable to accurately gauge the role that enhanced amateur radio service communications may play in the nationwide network.

Furthermore, without a formal reply comment period in this proceeding, interested parties will be at a disadvantage to dispute general and specific allegations of impediments to amateur radio communications, or from ensuring that comments have been submitted by those stakeholder entities with expertise in emergency response and disaster communications. As such, it will be difficult to determine whether any alleged instances of perceived impediments to such services are symptomatic of widespread problems or simply isolated complaints that may best be addressed on a case-by-case basis.

With these caveats in mind, we submit the following.

Commenters agree that amateur radio operators provide a “significant additional resource” to local emergency communications and augment “essential communications services [by] providing communications links when normal communication systems are overloaded or

not available.”³ As such, the Commission already has in place a policy of limited preemption of state and local regulations that govern amateur radio facilities. For years, local government regulations concerning the placement, screening, and height of antennas premised on public health, safety, and aesthetic considerations have reasonably accommodated amateur radio communications. There has been no showing that these limitations have been ineffective. As such, it is only proper that this Public Notice is concerned primarily with private land use restrictions.

On more than one occasion, the Commission has opted not to extend its policy of limited preemption to covenants, conditions and restrictions (CC&Rs) in deeds and homeowner association by-laws. This was due, in part, because private land use restrictions in private contractual agreements are voluntarily entered into by the buyer or tenant. Furthermore, the Commission determined that preemption of private land use restrictions was not required to further significant national policy objectives. We support this reluctance on the part of the Commission not to preempt private land use authority in this arena because such restrictions, along with local regulations, serve to protect the appearance and morale not only of the particular residential development, but of the entire community, as well.

At this juncture, it remains to be seen whether proponents of preempting private land use restrictions will be successful in making a sufficient showing that such restrictions impede the provision of amateur radio communications or that preemption is now required to advance a significant national policy objective. However, in any event, we urge the Commission to exercise caution in its report to Congress on this issue. We believe that this proceeding, coming

³ Commission Seeks Comment on Emergency Communications by Amateur Radio and Impediments to Amateur Radio Communications, *Public Notice*, GN Docket No. 12-91, DA 12-523 (rel. Apr. 2, 2012) (“Public Notice”).

as it does prior the release of plans for the nationwide public safety broadband network and without the opportunity to respond to comments, will fail to provide the Commission with all the information it needs to submit a complete study on these issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Traylor". The signature is fluid and cursive, with a large initial "S" and a stylized "T" for "Traylor".

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